

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 2nd day of March 2006.

Original Application No. 1641 of 2001.

Hon'ble Mr. K.B.S. Rajan, Member (J)

1. Smt. Anandi Devi, Wife of late Sharda Prasad (dead)
 - 1/1. Shunker Lal, S/o late Sharda Prasad
 - 1/2. Mahabir Prasad, S/o late Sharda Prasad
2. Vinod Kumar, S/o late Sharda Prasad

All are resident of House No. 14 Kahar Galla, New Cantt., Allahabad.

..... Applicant.

By Adv: Sri A. Kumar

V E R S U S

1. Union of India through Commandant, Ordinance Depot, Fort, Allahabad.
2. The Personnel Officer, Ordinance Depot Fort, Allahabad.

..... Respondents

By Adv: Sri M. Kumar

O R D E R

The applicant Smt. Anandi Devi Wife of late Sharda Prasad had moved this OA during the pendency of which she having died, her legal heirs have been brought on record.

2. Sri Sharda Prasad was appointed as a Mazdoor in 1963 and died in harness in February 1997, leaving behind him his widow and three sons. The normal

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date of superannuation of late Sharda Prasad was 31.01.2001. The family of the deceased was paid approximately Rs. 80,000/- as terminal benefits, in addition to the family pension as per rules.

3. The widow of the deceased applied for compassionate appointment of her third son, Sri Vinod Kumar and the same was considered thrice but had to be rejected as the vacancies were not many. The applicant Smt. Anandi Devi, therefore filed this OA. The relief sought through this OA is as under:

"(i) The Tribunal may be pleased to issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 2.2.2001 (Annexure A-1) passed by respondent no.2.

(ii) The Tribunal may graciously be pleased to issue a writ, order or direction in the nature of mandamus directing the respondents to provide suitable employment to the applicant no.2 vice his father with immediate effect."

4. Respondents have contested the OA. They had submitted that since there was no dependent other than the widow and the private income of the family members was also available, the case of the applicant did not figure in the deserved candidates' list, prepared on the basis of prescribed norms and hence after three considerations, the case was ultimately rejected.

5. In their rejoinder Smt. Anandi Devi had made a mention that one of her sons is mentally retarded and this fact was not considered by the respondents.

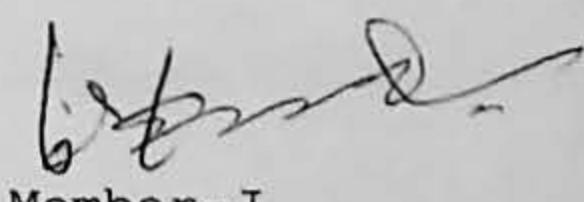
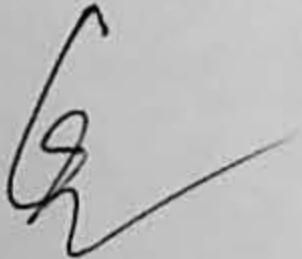
6. For proper adjudication of the case the relevant records were called for and the same, on production perused. At the time of first consideration the marks allotted to the applicant was 9/100 while appointments granted were for those who secured 66-63 and 58%. The rank secured by the applicant was 23. When the case was considered for the second time, the marks allotted were 9/100 and the applicant rank was 17 and those who secured 65%, 59% and 56% were given the appointment. When the applicant was considered for the third time he again stood in 17th rank and persons given the appointment had secured 72% and 63%.

7. From the above it is clear that a scientific way of comparison of all the cases has been adopted and since the applicant could not come within the merit his case could not be recommended for appointment.

8. A perusal of the above records, however, indicated that the applicant's case though was considered, the factum of one family member being mentally retarded was not taken into account. A mentally retarded person even after attaining majority continues to be a minor and dependent as such a Person is incapable of executing independently any contract. If the number of dependents had been increased by one, it is to be

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increased by one, it is to be seen whether the applicant's merit would increase. As a matter of fact after the demise of Smt. Anandi Devi the number of dependents has been reduced by one and in her place the mentally retarded son has to be considered. In that event, because of the demise of the dependent the number of dependents would be the same. Nevertheless since the fact of mentally retarded person has not been brought on record, interest of justice would be met if a direction is given to the respondents to consider the case of the applicant Sri Vinod Kumar once again taking into account the fact that he has to maintain his mentally retarded brother. If any additional marks are available for such mentally retarded person, in addition to the normal marks available for a dependent, the same be also considered. Even after so considering, if the applicant does not figure in the merit list, his case may have to be only rejected. In that event the respondents should indicate the marks obtained by the applicant, his rank in the merit list and the percentage of the marks obtained by the selected candidates. It is accordingly, ordered. Let this exercise be conducted in the next CRC meeting and the applicant suitably informed about the decision. The OA is disposed of accordingly. No costs.


Member-J